

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RICHARD R. SAINTCALLE,

Plaintiff,

v.

C/O L. RODRIGUEZ, et al.,

Defendants.

No. C06-0040P

ORDER ON DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT

This matter comes before the Court on a Report and Recommendation (R&R) by the Honorable Mary Alice Theiler, United States Magistrate Judge. (Dkt. No. 61). In this action, Plaintiff has brought claims under 42 U.S.C. § 1983 against two King County Corrections Officers, based on allegations that they failed to protect him from an attack by Plaintiff's son, Kirk SaintCalle, that occurred during Plaintiff's criminal trial in King County Superior Court. Judge Theiler recommends that the Court grant Defendants' motion for summary judgment. Judge Theiler also recommends that several motions filed by Plaintiff should be denied.

Having reviewed the R&R, Plaintiff's objections, and the balance of the record in this case, the Court finds and ORDERS as follows:

(1) The Court ADOPTS the R&R. In his objections, Plaintiff suggests that Judge Theiler failed to consider that there were two "Keep Separates" in Plaintiff's file (i.e., orders to keep Kirk and Plaintiff separate when they were in jail at the same time). However, Judge Theiler explicitly noted

1 this fact. See R&R at 9 (stating “there were ‘keep separate’ notices against Kirk in plaintiff’s jail
2 file”). Plaintiff also objects to parts of the R&R that describe details of the crimes for which Plaintiff
3 was on trial. However, in his opposition to Defendants’ motion, Plaintiff did not request that Judge
4 Theiler strike the materials offered by Defendants that contained these details. See Local Civil Rule
5 7(g) (providing procedure for party to move to strike materials contained in or attached to
6 submissions of opposing parties).

7 In large part, Plaintiff’s objections restate arguments that he presented in his opposition to
8 Defendants’ motion for summary judgment. Plaintiff maintains that Defendants were deliberately or
9 recklessly indifferent to his safety and health by failing to prevent Kirk’s attack. However, the Court
10 agrees with Judge Theiler’s analysis of Defendants’ motion. As Judge Theiler noted, the record at
11 most may suggest that Defendants acted negligently in failing to anticipate the potential risk posed by
12 Kirk’s presence in the courtroom on the day of the attack, not that they were deliberately or recklessly
13 indifferent to Plaintiff’s safety or health. The Court also agrees with Judge Theiler’s analysis of
14 several motions filed by Plaintiff.

15 (2) Accordingly, the Court GRANTS Defendants’ motion for summary judgment. The
16 Court also DENIES Plaintiff’s motions for appointment of counsel (Dkt. No. 40), for an order to
17 obtain the King County Jail record of Kirk SaintCalle (Dkt. No. 49), and for issuance of a subpoena
18 duces tecum to obtain additional evidence from trial counsel (Dkt. No. 51). Plaintiff’s complaint, and
19 this action, are DISMISSED with prejudice.

20 (3) The Clerk is directed to send copies of this Order to Plaintiff, to counsel for
21 Defendants, and to the Honorable Mary Alice Theiler.

22 Dated: January 17, 2007

23
24 s/Marsha J. Pechman
Marsha J. Pechman
25 United States District Judge